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STATE OF ILLINOIS
SPRINGFIELD

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FILE NO. S-324

COUNTY OFFICERS:
Coroner

Honorable Walter Boyle
State's Attorney
Putnam County
Hennepin, Illinois 61327

Dear Mr. Boyle:

I have your recent letter wherein you state:

"In Putnam County, where no hospital is located, we have had problems regarding removal of bodies in traffic accidents to another County. We, therefore, request your opinion on the following matters:

"1. In case of an automobile or other accident where there are serious injuries and deaths, is it lawful for the Deputy Sheriff or other official in charge to have the bodies removed from the scene of the accident to a hospital in another County by ambulance after the Coroner has pronounced them dead without Coroner's permission?

"2. Does the Coroner (when he is not a physician) have the power to pronounce a person dead?

"3. What is the effect when the Coroner does pronounce a body dead?

"4. If a body, after being pronounced dead by the Coroner, is transported from the scene of the accident to a hospital in another County, should the inquest be held in the County where death occurred or in the County where the hospital is located?

"5. If a body is transported from the scene of the accident to a hospital in another County and the body is dead on arrival, should the inquest be held in the County where the accident occurred or in the County where the hospital is located?

"6. In case of an automobile or other accident where there are serious injuries and deaths, is it lawful for the Deputy Sheriff or other official in charge to have the bodies removed from the scene of the accident to a hospital in another County by ambulance where the persons appear to be dead?"

The powers and duties of a Coroner are limited to those expressly given by statute. (Palenzke v. Bruning, 98 Ill. App. 645; 18 Am. Jur. 2d 516, Coroners or Medical Examiners, Sec. 1.) The pertinent statutory provisions are:

"Every coroner, whenever, as soon as he knows or is informed that the dead body of any person is found, or lying within his county, whose death is suspected of being:

"(a) A sudden or violent death, whether apparently suicidal, homicidal or accidental, including but not limited to deaths apparently caused or contributed to by thermal, traumatic,

chemical, electrical or radiational injury, or a complication of any of them, or by drowning or suffocation;

"(b) A maternal or fetal death due to abortion, or any death due to a sex crime or a crime against nature;

"(c) A death where the circumstances are suspicious, obscure or mysterious or where, in the written opinion of the attending physician, the cause of death is not determined;

"(d) A death where addiction to alcohol or to any drug may have been a contributory cause; or

"(e) A death where the decedent was not attended by a licensed physician; shall go to the place where the dead body is, and take charge of the same and shall make a preliminary investigation into the circumstances of the death. In the case of death without attendance by a licensed physician the body may be removed with the coroner's consent from the place of death to a mortuary in the same county. Coroners in their discretion shall notify such physician as is designated in accordance with Section 10.1 to attempt to ascertain the cause of death, either by autopsy or otherwise.

"In cases of apparent suicide or homicide or of accidental death, the coroner shall, and in other cases in his discretion he may, summon a jury of 6 persons of lawful age residing in the vicinity where the death occurred, and conduct an inquest into the cause of death. Inquests may be continued from time to time, as the coroner may deem necessary. The 6 jurors originally summoned in a given case shall view the body of the deceased. If at any continuation of an inquest one or more of the original jurors shall be unable to continue to serve, the coroner shall fill the vacancy or vacancies; but it shall not be necessary to exhumate the body for viewing by

any such substitute juror." (Ill. Rev. Stats. 1969, Chap. 31, Par. 10.)

"No dead body which may be subject to the terms of this Act, or the personal property of such a deceased person, shall be handled, moved, disturbed, embalmed or removed from the place of death by any person, except with the permission of the coroner, unless the same shall be necessary to protect such body or property from damage or destruction, or unless necessary to protect life, safety, or health. Any person knowingly violating the provisions of this Section is guilty of a misdemeanor." (Ill. Rev. Stats. 1969, Chap. 31, Par. 10.5)

In answering your questions, the key concept is death, without which the coroner has no power to act or duties to perform. The fact of death is not always a matter of easy determination. As stated by one of my predecessors:

"Human experience has taught us that quite frequently, and perhaps more frequently than not, a person presumed to be dead upon view at the scene of an accident is found to be alive with a possible chance of recovery upon arrival at a hospital. As has been said, common sense must always be applied and used by persons charged with maintaining order and in the enforcement of the law." (1953 Illinois Attorney General's Opinions, p. 248)

In your first question you refer to the Coroner's permission. Section 10, hereinbefore quoted, requires the Coroner's permission for removal of the bodies from the scene, unless removed by necessity under the provisions of Section 10.5,

Honorable Walter Boyle - 5

also quoted herein. The Coroner has discretion in granting such permission. His exercise of that discretion must be based upon his duty to determine cause of death in situations which are included within the provisions of Section 10. The Coroner, of course, must exercise his discretion reasonably and could not deny permission for purely arbitrary or personal reasons.

(The People v. Depart. Pub. Welfare, 368 Ill. 505) (Ogden Building Ass'n. v. Mensch, 196 Ill. 544; 29 I.L.P. p. 86, Officers Section 51)

I assume when you use the terms "death", "body" and "persons appear to be dead", you are referring to a situation where there is no room to doubt that death has, in fact, occurred. Where there is a possibility, no matter how remote, that death has not occurred, then such persons are to be considered as injured only. Therefore, in response to your first question, any law enforcement officer on the scene can have any injured person removed from the scene to a hospital. The authority of any law enforcement officer on the scene, with reference to any person who is dead, is limited to removal of the body from the scene without consent of the Coroner only if necessary to protect the body from damage or destruction or if necessary to protect

Honorable Walter Boyle - 6

life, safety and health. (Section 10.5 supra) If the law enforcement officer does deem it necessary, the body may be removed but only to a mortuary in the same county. (Section 10 supra)

The Coroner has no particular power or authority with reference to declaring a person dead except at the time and in the course of issuing a death certificate under the provisions of Section 10.4 of the cited statute. (Ill. Rev. Stats. 1969, Chap. 31, Par. 10.4) Prior to such time the Coroner's opinion as to whether death has occurred is of no more weight than that of any other person, particularly that of a law enforcement officer, at the scene. Therefore, if a law enforcement officer at the scene believes that an injured person is or may be alive, he may take such action as he deems reasonable and proper, including removal of that person from the scene to a hospital located either in or out of the county in which the accident occurred.

I have already answered your second and third questions. A Coroner can pronounce a person dead, but such pronouncement is not binding upon any other person, particularly a law enforcement officer on the scene who may believe that death

Honorable Walter Doyle - 7

has not, in fact, occurred, or who may have reasonable doubt that death has occurred.

In answer to your questions numbered four and five, the inquest should be held in the county where the body of the deceased is located at the time of the inquest. Section 10 of the cited statute requires the Coroner's jury to view the body. It is my opinion that the Coroner and his jury would have no authority to go into another county to view the body for the purpose of holding an inquest. Official power does not ordinarily follow the office holder but should be exercised within the territory in which he is an officer. (The People v. Anderson, 239 Ill. 266; 29 I.L.P. p. 86, Officers, section 51.)

Your question number six refers to a situation " . . . where the persons appear to be dead." Again the answer depends upon whether death has in fact occurred. If death has occurred a law enforcement officer on the scene cannot have the body removed except as necessary within the meaning of Section 10.5 hereinbefore quoted. But, I assume that all doubts as to the fact of death will be resolved in favor of life and only the obviously dead person will be allowed

Honorable Walter Eoyle - 8

to remain at the scene pending the arrival of the Coroner and
his taking charge of the body.

Very truly yours,

ATTORNEY GENERAL